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2 UNITED STATES DISTRICT COURT  
3 DISTRICT OF NEVADA

4 CHARLES NELSON,  
5 Petitioner,  
6 v.

7 WILLIAM GITTERE, *et al.*,  
8 Respondents.  
9

Case No. 3:18-cv-00029-RCJ-CBC

**ORDER**

10  
11 In this habeas corpus action, the petitioner, Charles Nelson, represented by  
12 counsel, filed an amended habeas petition on December 3, 2018 (ECF No. 17). The  
13 Court will, therefore, set a schedule for further proceedings in this action. The Court will  
14 also order the docket for this action updated to properly reflect the identity of the  
15 respondent warden.

16 **IT IS THEREFORE ORDERED** that the schedule for further proceedings in this  
17 action shall be as follows:

18 Response to Amended Petition. Respondents will have 90 days from the date of  
19 this order to file an answer or other response to the amended petition.

20 Reply and Response to Reply. Petitioner will have 60 days following service of  
21 an answer to file a reply. Respondents shall thereafter have 30 days following service of  
22 a reply to file a response to the reply.

23 Briefing of Motion to Dismiss. Petitioner will have 60 days following service of a  
24 motion to dismiss to respond to the motion. Respondents will then have 30 days to  
25 reply.

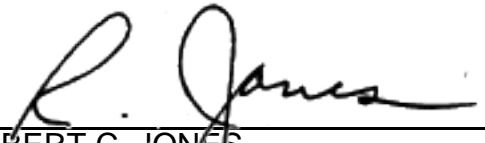
26 Discovery. If Petitioner wishes to move for leave to conduct discovery, Petitioner  
27 shall file such motion concurrently with, but separately from, the response to  
28 Respondents' motion to dismiss or the reply to Respondents' answer. Any motion for

1 leave to conduct discovery filed by Petitioner before that time may be considered  
2 premature, and may be denied, without prejudice, on that basis. Respondents shall file  
3 a response to any such motion concurrently with, but separately from, their reply in  
4 support of their motion to dismiss or their response to Petitioner's reply. Thereafter,  
5 Petitioner will have 20 days to file a reply in support of the motion for leave to conduct  
6 discovery.

7 Evidentiary Hearing. If Petitioner wishes to request an evidentiary hearing,  
8 Petitioner shall file a motion for an evidentiary hearing concurrently with, but separately  
9 from, the response to Respondents' motion to dismiss or the reply to Respondents'  
10 answer. Any motion for an evidentiary hearing filed by Petitioner before that time may  
11 be considered premature, and may be denied, without prejudice, on that basis. The  
12 motion for an evidentiary hearing must specifically address why an evidentiary hearing  
13 is required and must meet the requirements of 28 U.S.C. § 2254(e). The motion must  
14 state whether an evidentiary hearing was held in state court, and, if so, state where the  
15 transcript is located in the record. If Petitioner files a motion for an evidentiary hearing,  
16 Respondents shall file a response to that motion concurrently with, but separately from,  
17 their reply in support of their motion to dismiss or their response to Petitioner's reply.  
18 Thereafter, Petitioner will have 20 days to file a reply in support of the motion for an  
19 evidentiary hearing.

20 **IT IS FURTHER ORDERED** that, pursuant to Federal Rule of Civil Procedure  
21 25(d), the Clerk of the Court is directed to substitute William Gittere for Timothy Filson,  
22 on the docket for this case, as the respondent warden.

23  
24 Dated this 14<sup>th</sup> day of January, 2019.

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26   
27 ROBERT C. JONES,  
28 UNITED STATES DISTRICT JUDGE